FOR MYSORE STATE

Development (1950) Department.

Ms SERIES.

G.O. No. 2536 30

Dated 26 6 1950

[Despatch Abstract.]

Acts Madras – Co-operative Land Mortgage Banks (Amendment) Act 1950 Papers Recorded

DEVELOPMENT DEPARTMENT

NOTE FOR DISCUSSION AT AN INFORMAL MEETING OF THE MINISTERS

Sub: ACTS and RULES - Madras Co-operative Land Mortgage Banks Act, 1934 - Amendment.

Representations were made to the Govt. in the past that land mortgage banks should be organised in Malabar and South Kanara, as in other districts of the Province. In Feb.1937, the Govt. constituted under the chairmanship of Sri T.A. Ramalingam Chettiar two Committees, one for Malabar and the other for South Kanara, to examine and report on the possibility of organising such banks in the respective districts, with particular reference to the land tenures and personal laws prevailing in them. The reports of the Committees were published in July 1937. They recommended that legislation should be undertaken on the lines indicated by them to facilitate the successful working of land mortgage banks in those two districts. Subsequently, the Madras Committee on Co-operation, 1939-40, also recommended certain amendments to the Madras Co-operative Land Mortgage Banks Act, 1934.

2. In Malabar, the janmi is the ultimate owner of the land, but between him at the top and the cultivating tenant at the bottom, there are usually a number of intermediaries. Most of the land in Malabar is held under the three main classes of tenancies- the verumpattam, Kanam and kuzhi- kanam. Verumpattam is a simple lease enuring for a single year, and is the lowest of tenures prevalent in the district. When it runs for a period of 12 years it is known as customary verumpattam. Kanam is a lease with security as opposed to bare lease, and is generally for a period of 12 years. Kuzhikkanam is also a lease for twelve years granted for planting fruit-bearing trees. All rights which a tenant has in his holding are heritable and alienable. After the expiry of the period of tenure, the customary verumpattamdar, kanamdar and kuzhi-kanamdar are entitled to a renewal of the tenure

for a further period of 12 years on payment of what is known the renewal fee. The tenants have also the right to surrender their holdings at the end of any agricultural year. A landlord can evict the three classes of tenants mentioned above on any of the grounds mentioned in section 20 of the Malabar Tenancy Act, 1929. On eviction, the tenant is entitled to the value of his improvements and if he happens to be a kanamdar also to the kanam amount advanced by him to the landlord.

As things stand, land mortgage banks can advance loans safely on the security of the jenmi's rights but it is not safe for them to lend to the tenants on the security of their rights to possess the land unless adequate safeguards are provided. The Malabar Land Mortgage Bank Committee, 1937, recommended that legislation be undertaken:-

(1) (a) to prevent a tenant from surrendering his right to possession during the currency of a mortgage in favour of a land mortgage bank; and

(b) to prevent a land-holder:-

(i) from entering upon the land under section 20 of the Malabar Tenancy Act during the period of the currency of a mortgage in favour of a land mortgage bank;

(ii) from filing suits for the sale of the holdings for arrears of michavaram or rent without giving previous notice to the bank:

(2) to give the land mortgage bank the right of renewal of the lease which the tenant has, so that it might exercise that right in cases where the lessees fails to do so;

(3) where the tenant defaults to pay rent or michavaram, to enable the land mortgage bank to pay to the land-holder such michavaram or rent, to close the loan and bring the property to sale.

In this connection, the Committee suggested that Section 13 of the Madras Co-operative Land Mortgage Banks Act, 1934, be amended, so that the expression "mortgage money" used in it may be made to include money paid as rent and that opportunity be taken to amend that section so as also to provide for the payment of land revenues by the land mortgage banks on the failure of the mortgagors to do so in the case of districts other than Malabar and South Kanara.

(4) to extend the special provision contained in section 32 of the Madras Co-operative Land Mortgage Banks Act, 1934 tha to families governed by Marumakkathayam, Nambudri and Aliyasantana laws.

(5) The Committee further recommended that:

(a) legislation should be undertaken on the lines of the Cochin enactment under which a loan granted by a land mortgage bank is notified in the gazette before it is sanctioned, the notification serving as a direct notice to the Jenmi and the other persons interested, and no action taken by any person after such notification will affect the bank unless it is directly communicated with;

(b) as in Cochin, all improvements made by the lessee should be treated as accessions to the mortgaged property: and.

(c) notice to the six senior-most members of a 'Tarwad' should be treated as tantamount to notice to all the members of the Tarwad.

3. The Madras Committee on Co-operation, 1939-40. recommended:-

(1) that section 9 of the Madras Co-operative Land Mortgage Banks Act be amended so as to make it clear that the provision in that section for the distraint and sale of the produce of the mortgaged land including the standing crop will be subject to the provisions of section 21 of the Mad ; Co-operative Societies Act, 1932.

(2) that section 32 of the Land Mortgage Banks Act be amended so as to make it clear that debts incurred for improvement of land for the creation of economic holdings should also be made binding on the minors of a joint Hindu family: and

(3) that the assignment of mortgage bonds by primary land mortgage banks to the Madras Co-operative Central Land Mortgage Bank be dispensed with by suitable legislation. The mortgage bonds executedby members of primary land mortgage banks are at present assigned in batches by registered deeds by the latter in favour of the Central Land Mortgage Bank. This arrangements involves some expense, inconvenience and trouble to primary banks and delay in the disbursement of loans to individual borrowers. The Committee's suggestion to dispense with such assignment is analogus to existing section 5 of the Land Mortgage Banks Act under which the mortgages and other assets transferred by primary banks in favour of the Central Land Mortgage Bank automatically vest in the Trustee from the date of such transfer.

4. The various amendments referred to in paragraphs 2 and 3 above were examined in consultation with Legal and other departments of the Secretariat concerned and a draft bill with statement of objects and reasons was prepared by the Legal Department in September 1942. But the bill was deferred for the duration of the war. A copy of the bill as then drafted was forwarded to the Regr. in June 1946 and he was asked to state whether, as a result of the experience gained during the past 4 years, he wished to suggest any alterations or additions to the bill. The Regr. has since offered his remarks and the draft bill as further amended is appended to this Memorandum. It is for orders whether legislation will now be undertaken on the lines set out in the Draft Bill and

whether the Govt. of India may be consulted under Secretariat Instruction 33-A in regard to new section 32 (clause 6 draft)

RR.14.8 ~~Superintendent.~~

K. Shankar.

K. V. Ambujakshi

DEVELOPMENT DEPARTMENT.

Letter No.35951 -BIII/46-26 dated 16-9-46.

To

The Secretary to the Government of India,
Ministry of Agriculture,
New Delhi (with enclosure)

Sir,

Sub: Acts and Rules- Madras Co-operative Land Mortgage Banks Act, 1934 - Amendment.

I am directed to invite attention to this Government's letter No.676 B/37-23 dated 28-2-1942 and to the reply from the Government of India, Department of Education, Health and Lands, No.F.1-4/42-A dated 25-4-1942, on the subject mentioned above. Legislation for the purpose was, however, deferred for the duration of the war. The Government of Madras proposes to undertake this legislation now and a copy of the draft bill to amend the Madras Co-operative Land Mortgage Banks Act, 1934, is enclosed.

2. It will be observed from clause 6 of the draft bill that it is proposed (1) to provide that a mortgage executed in favour of a mortgage bank by the manager of a joint Hindu family etc. shall be binding on the members thereof, whether major or minor, if the loan secured by the mortgage was granted for the purpose of the improvement of the agricultural land or the methods of cultivation or the purchase of land and (2) to extend the special provisions in sub-section(1) of section 22 of the Madras Co-operative Land Mortgage Banks Act, 1934, relating to burden of proof, to mortgages executed in favour of a mortgage bank by the karanavan of a Marumakkattayam tavard or tavashi or of a Nambudri illom or the manager of a Thiyya or Ezhuva family or the ejaman or ejamanathi of an Aliyasanthana family. These amendments have been proposed in pursuance of the recommendations of the Malabar and South Kanara Land Mortgage Banks Committees,1937.

3. As the amendment referred to in paragraph 2 above deals with a subject included in the concurrent legislative list, I am to enquire whether the Government of India see any objection to the proposal.

No.F.5-48/48-Co.
Government of India,
Ministry of Agriculture,
New Delhi, the 1-2-'49.

From

S.R. Maini, Esquire, P.C.S.
Deputy Secretary, Ministry of Agriculture,
Government of India.

To

The Secretary to the Government of Madras,
Development Department.

Sub: ACTS AND RULES -MADRAS CO-OPERATIVE LAND MORTGAGE BANKS ACT, 1934 - AMENDMENT.

Sir,

I am directed to refer to your letter No.35951-B.III/46-26, dated the 16th September, 1948, on the subject mentioned above, and to say that the Governor-General has no objection to the Government of Madras undertaking legislation to amend the Madras Co-operative Land Mortgage Banks Act, 1934, on the lines proposed therein.

Yours faithfully,
Sd/.....
Deputy Secretary to the Govt. of India.

-True copy-

RR.14.8

No.35951-B.III/46-33

Development Department,
Fort St. George, Madras-9.
Dated 16th May 1949.

OFFICE MEMORANDUM.

Sub: Acts and Rules- Madras Co-operative Land Mortgage Banks Act,1934 - Draft amendments.

Ref: Letter from the Registrar of Co-operative Society No.Rc. 10659/46-J dated 24-9-46.

.....

New section 23-A which it is proposed to insert before section 24 of the Madras Co-operative Land Mortgage Banks Act, 1934, provides that the mortgages executed in favour of, and all other assets transferred to, a mortgage bank by the members thereof shall, with effect from the date of such execution or transfer be deemed to have been transferred by such mortgage bank to the Central Land Mortgage Bank. In other words, it will be unnecessary to transfer such mortgages and assets by registered documents. The Registrar of Co-operative Society is requested to state urgently what revenue in the shape of registration fees was derived during each of the last three years on account of the transfer of the mortgages and other assets by primary land mortgage banks to the Central Land Mortgage Bank by means of registered documents and what would be the estimated loss of revenue involved in new section 23-A.

Sd/.....
Secretary to Government.

To
The Registrar of Co-operative Society.

True copy-

Copy of letter No.Re.66070/49.J dated 31-8-49 from the Registrar of Co-operative Societies, Madras to the Secretary to Government, Development Department, Fort. St. George, Madras

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Sub: Acts and Rules - Madras Co-operative Land Mortgage Bank Act, 1934 Draft amendments.

Ref: 1. Government (Development Department) Memorandum No.35951-B.III/46-33 d/16-5-49 dnd 1-8-49.
2. My letter No.Re.66070/49 J. dated 30-6-49 & 10-8-49.

In their Memorandum cited, Government have asked me to state what revenue in the shape of registration fees was derived during each of the last 3 years on account of the transfer of mortgages and other assets by Primary Land Mortgage Banks to the Central Land Mortgage Bank by means of registered documents and what would be the estimated loss of revenue involved in the proposal to amend the Land Mortgage Banks Act to dispense with the execution and registration of assignment deeds.

2. The Inspector General of Registration, Madras has furnished the following figures in respect of the amount of the registration fees realised on deeds of assignment executed by the Primary Land Mortgage Banks in favour of the Central Land Mortgage Bank during each of the last three financial years.

Year.	Amount of fees.
1946-47	Rs.10,759 -13- 0
1947-48	Rs.13.456- 3- 0
1948-49	Rs.17,911- 7- 0.

3. As regards the probable loss of revenue in future years it is not possible to forecast it with any degree of accuracy as it depends on the vicissitudes of loan business of the Banks. Further Government have withdrawn the registration concessions in respect of documents of the value exceeding Rs.5000/- in G.O. No.1007, Development dated 28-2-1949 as modified in G.O.2466, Development dated 9-5-49. It i now too early to judge the effect of this. During the co-operative year 47-48 only 299 out of 3061 loans were for amounts exceeding Rs.5000/- It may be surmised that the probable increase in revenues by way of

registration fees if the concessions were to be withdrawn may not therefore be considerable. Based on the figures for 48-49 given above and also allowing a margin for the increase in revenue consequent on the withdrawal of concessions in respect of documents of the value exceeding Rs.5000/- the actual loss of revenue may be estimated at Rs.19,000/- per annum.

4. I consulted the Madras Co-operative Central Land Mortgage Bank in the matter. A copy of its letter No.12547/48-49 dated 11-8-49 is enclosed. I endorse the views of the bank. The proposal is based on the recommendation of the Committee on Co-operation. The considerations of loss of revenue which may after all very little, need not stand in the way of working up scheme calculated to better the lot of agriculturists. I therefore request that Government may be pleased to enact the amendment early.

- True copy-

RR.14.8

Guindy,
20th December 1949.

MESSAGE

In pursuance of section 299, sub-section(3) of the Government of India Act,1935, I, Krishnakumarsinhji Bhavsinhji, Governor of Madras, hereby accord my previous sanction for the introduction of the Madras Co-operative Land Mortgage Banks(Amendment) Bill, 1949, in the Madras Legislative Assembly.

Sd/. Krishnakumarsinhji Bhavsinhji.
G O V E R N O R .

-True copy-

RR.17.8

Copy of letter No.35951-B.III/46-32 dated 19-1-50 from the Hon'ble Sri- K. Chandramouli, Minister for Local Administration to the Se Madras Legislative Assembly.

****

I have the honour to give you notice under rule 75 of the Madras Assembly Rules, that I propose to introduce the Madras Co-operative Land Mortgage Banks (Amendment) Bill,1950, at the present meeting of the Legislative Assembly and to move that the Bill be taken into consideration at once. If the motion is carried and the Bill is considered, I propose to move that the Bill be passed into law.

2. The Bill together with the Statement of objects and Reasons was published in the Fort St. George Gazette, dated the 3rd January 1950.

Yours faithfully.
Sd/.K. Chandramouli.
MINISTER.

-True copy

RR.17.8

D.O.35951-B.III/46-33

Fort St. George, Madras-9.
Development Department,
Dated 19th January 1950.

Dear Raghava Varma,

I am to forward the enclosed message from His Excellency the Governor in respect of the Madras Co-operative Land Mortgage Banks (Amendment) Bill, 1950, according previous sanction for its in the Madras Legislative Assembly under section 299(3) of the Government of India,Act,1935.

Yours Sincerely,

Sd/.....

To

Sri. D.K.V. Raghava Varma, B.A.B.L.,
Secretary, Madras Legislative Assembly.
Madras.

RR.18.8

-True copy-

Letter No.35951.B.III/46-47.

DEVELOPMENT DEPARTMENT.

From

The Hon'ble Sri. K. Chandramouli,
Minister for Local Administration.

To

The Secretary,
Madras Legislative Council.

Fort St. George, dated 30th March 1950.

Sir,

I have the honour to give you notice under Rule 406 of the Madras Council Rules that at the present meeting of the Legislative Council, I propose to move that the Madras Co-operative Land Mortgage Banks (Amendment) Bill, 1950 (L.A.Bill No.6 of 1950) as passed by the Legislative Assembly be taken into consideration. If the motion is carried and the Bill is considered, I propose to move that the Bill be passed into law.

- Yours faithfully,

Sd/. K.Chandramouli.
30-3-50.
MINISTER.

-True copy-

Mr. Speaker Sir,

I (Deputy Chairman) move that the Madras Co-operative Land Mortgage Banks (Amendment) Bill, 1950, as passed by Legislative Assembly be taken into consideration at once.

The main object of the Bill is to give effect to the recommendations of the Malabar and the South Kanara Land Mortgage Banks Committees, 1937, and the Madras Committee on co-operation, 1939-40, with a view to facilitating the working of land mortgage banks in the Malabar and in the South Kanara districts.

Let me briefly explain the reasons underlying the more important clauses of the Bill.

The Central Land Mortgage Bank issues debentures on the security of the mortgages and other assets transferred to it by the primary land mortgage banks. Such mortgages and assets are now transferred to the Central Land Mortgage Bank by means of registered documents. This not only involves some expenditure and trouble to the primary land mortgage banks but also adds to the delay in the disbursement of loans to the individual borrowers. To obviate all this, a new section (23-A) is proposed to be added by clause 4 of the Bill, so as to provide that these mortgages and assets shall be deemed automatically to have been transferred to the Central Land Mortgage Bank. The probable loss of revenue to the Government in the shape of registration fees is estimated at Rs.19,000 per annum.

Clause 6 of the Bill gives effect to the recommendation of the Malabar Land Mortgage Banks Committee that the special provision contained in existing section 32 be extended to families governed by the Marumakkattayam, Nambudri and Aliyasanthana laws. Section 32 as proposed to be amended also makes it quite clear that, if a loan is granted by a mortgage bank for improvement of agricultural land or of methods of cultivation and the purchase of land, the tgage executed by the borrower shall be deemed to have been cuted by him for a purpose binding on all the members of the mily, whether they are majors or minors.

New Section 32-A, inserted by clause 7 of the Bill contains certain special provisions relating to mortgages by tenants in Malabar. The new section requires a mortgage bank to give notice in writing to the landlord both before and after granting the loan. It also requires the landlord to give not less than 15 days notice to the mortgage bank before instituting a suit for bringing the tenant's holding to sale for default in payment of rent or for evictim. The tenant is precluded from surrendering his holding and also from dealing with it in any other manner without the previous permission of the mortgage bank. The mortgage bank is given the right to recover the monies due to it from the tenant out of the compensation deposited in Court under the Malabar Compensation for Tenants Improvements Act, 1899. The bank is also given the right to renew the tenancy, if the tenant does not do so and also to pay the rent or michavaram due to the landlord, if the tenant commits default in making such payment. Any renewal fee, rent or michavaram paid by the bank will form part of the principal money due under the mortgage and the bank will, in such cases, be also entitled to recover the whole of its money by the sale of the holdings."

The other clauses of the Bill, namely 2,3,5 and 8 are consequential.

There are now six land mortgage banks in Malabar and South Kanara but they are not functioning satisfactorily, largely on account of the land tenures and the personal laws prevailing in the two districts. I hope that, as a result of the passing of this Bill, this State of affairs will be remedied and that the system of land mortgage banks will work more successfully in the West Coast.

I commend the Bill for the consideration of this House.

Sd/.....
28-3-50.

True copy

RR.17.8

Note File 1

XX XX XX

The subject was discussed at the Informal Meeting of the Council of Ministers held on 18-8-'48 and the following resolution was passed:-

" The proposals in the Note for undertaking legislation on the lines suggested therein are approved".

Sd/.P.K. Ranganayakalu.
Principal Private Secretary
to the Hon'ble the Premier.

.... Development Dept.

" The Government of India may now be consulted under Sectt. Instruction 33-A in respect of the legislation in the concurrent field (Vide Paragraph 2 of the) Legal Dept's note at p.7 above) A draft letter is submitted for approval.

Legal may see, before issue.

Sd/.....
3-9-48. Legal.

LEGAL DEPARTMENT.

Paragraph 2 of the draft letter may be recast as follows:-

"It will be observed from clause 6 of the draft Bill that it is proposed (1) to provide that a mortgage executed in favour of a mortgage bank by the manager of a joint Hindu family etc. shall be binding on the members thereof, whether major or minor. if the loan secured by the mortgage was granted for the purpose of the improvement of the agricultural land or the methods of cultivation or the purchase of land and (2) to extend the special provisions in sub-section(1) of section 32 of the Madras Co-operative Land Mortgage Banks Act,1934, relating to burden of proof, to mortgages executed in favour of a mortgage bank by the karanavan of a Marumakattayam ~~tawazi~~ tarward or tavashi or of a Mambudri illom or the manager of a Thiyya or Ezhuva family or the ejaman or ejamanathi of an Aliyasanthana family. These amendments have been proposed in pursuance of the recommendations of the Malabar and South Kanara Land Mortgage Banks Committees, 1937.

The other slight & alterations indicated in red ink on the draft letter may also be made.

Sd/.....
8-9-48.

Development Department.

A clean copy of the draft letter to the Govt. of India, recast by Legal, is submitted below for approval. It may now issue.

Sd/.....
Secretary
13-9-48.

May issue.

Sd/.....
14-9-

Sd/.... K.C.
H.M(L.A.)
15-9-48.

x x x x

To: Asst. Secy.

The Govt. of India have stated that they have no objection to legislation being undertaken, as proposed in this Departments letter at pp.23-24 C.F. With reference to Secretariat Instruction 32(3), the file may now be sent to the Legal Deptt. and they may be requested to kindly prepare a draft Bill with a statement of objects and Reasons and Explanatory notes on clauses, where necessary. The attention of that Deptt. may be invited to the note for discussion at an informal meeting of Ministers at pp-13-20 C.F. which sets out the lines on which it has been decided to legislate.

Sd/.....
6-2-49 Legal.

LEGAL DEPARTMENT.

A draft Bill with Statement of Objects and Reasons is placed below. The Statement fully explains the scope of the provisions of the Bill and no Notes on Clauses are necessary.

'A'

2. The Bill falls within the scope of the following entries of the Legislative Lists and in intra vires the Provincial Legislatures.

Provincial Legislative List:

Entry 33-,..... co-operative Societies.

" 21 - Land, that is to say, rights in or over land, land tenures, including the relation of landlord and tenant.....

Concurrent Legislative List:

Entry 4 - Civil Proceduro.

" 6 - .....infants and minors.

" 8 - ..... registration of deeds and documents.

" 10 - .... Contracts.

3. Consultation with the Government of India under Secretariat Instruction 33-A is necessary and has been made- sse pages 23 & 24 and 31 c.f

4. Clause 7 of the Bill may be said to modify rights in land and consequently the Bill requires the previous sanction of the Governor under section 299(3) of the Government of India Act, 1935.

5. The Bill does not required the recommendation of the Governor under section 82 of the Government of India Act, 1935.

Sd/.....
4-4-49.

Development may see. and say whether the Bill below meets their requirements. It will be convenient to print the Bill and the statement of objectsxx and Reasons, and circulate a copy independently to each of the Hon'ble Ministers. This work will be done in this Department. /M

To: Asst. Secy.

The Legal Deptt's note above and the draft bill with the Statement of objects and reasons prepared by that Deptt. may be perused. The Bill meets the requirements as set forth in the note for the discussion at an informal meeting of Ministers at pp.13-20 c.f and call for no remarks. It may be sent to Home, Revenue and Finance Deptts. for remarks, if any, with reference to Secretariat Instruction 32(5)

Sd/....
16-4-49.

Sd/... Home Rev. Fin

HOME DEPARTMENT.

This file relates to certain amendments to the Madras Co-operative Land Mortgage Banks Act.1934. The draft bill prepared by the Legal Deptt. is put up at 'A'. clause 5 of the old Bill has now been deleted, as suggested by the ~~xxxxxxxxxx~~ R.C.S. and agreed to by this Deptt.

2. May be perused and passed on to Revenue Department

Sd/.....
25-4-

Revenue Dept.

To: A.S.

(Previous notes of this dept is on pp.10-1 -nd 19 ante).

The note of the Dev. Dept. on pp.29-30 above, and the draft bill to amend the Madras Co-operative Land Mortgage Banks Act,1934 prepared by the Legal Dept. put up at (A) may be perused and the file passed on to Fin.

'A'

Sd/....
D.S.5-5-49.

Sd/....
6-5-49.

Finance (Exp.A)

(Previous Finance note on pp.5-6 above).

Notes from page 29 above may be perused.

With reference to the note of A.D.S., Finance, at N at p.6 above, it is submitted that the R.C.C. considers that no changes are necessary to the draft bill in the light of the provisions of the Madras Tenants and Ryots Protection Act,1946. Devt. and Revenue agree with this view.

'Z'

No special remarks are called for in Finance on the draft bill except that a financial memorandum showing the financial implications, involved, should be attached to the 'A'

bill as required by Sectt. Instruction 32(2).

Sd/.C.S.K.
12-5-49

Sd/.....
12-5-49.

Development Deptt.

The notes of Home, Revenue and Finance from page 30 above may be perused. With reference to portion marked 'A' in the Finance deptt. note at pp31-32 above. it was considered in 1941 that the loss of revenue involved in new section 23-A would be negligible. The Regr. may perhaps be now specifically consulted on this point before a fiducial memorandum is prepared. A draft O.M. is submitted for approval.

Sd/.....
15-5-49.

To: A.S.

Please see the memo at pp.33-34 c.f. and the Registrar's reply with enclosure at pp.35-37 C.F. A draft Financial Memorandum to be attached to the Bill is submitted for approval. Finance may see before circulation.

Sd/.....
9-9-49.
Finance.

Fin(Exp.4).

(Previous Finance note on pp31-32 above).

The Financial Memorandum put up by Devt. may be perused.

Sd/.....
15-9-49.

Dev. Deptt.

On.p.29 above, Legal have suggested that the draft bill and the Statement of objects and reasons may be pointed and a copy circulated independently in each of the H.M.S. The financial memorandum placed below may also be printed and attached to the bill. The file

may now be sent to Legal w.r. to M on p.29 above.

Sd/....
15-9-49. Legal.

Legal Dept.

Clean copies of the Madras Co-operative Land Mortgage Banks (Amendment) Bill, 1949, which were called for from the S.G.P. in this Dept's memo No.12007/44-1 d/28-9-49 have been received. Thirty copies of the Bill (placed below) may be sent to Dev. Deptt. and the file returned to them for further action.

Sd/.....
26-10-49.

DEVELOPMENT DEPARTMENT.

To: ASST. SECRETARY

Please see the printed draft Bill to amend the Madras Co-operative Land Mortgage Banks Act, 1934, with the Statement of Objects and Reasons and the Financial Memorandum at pp.39-46 c.f. The subject was discussed at the Informal meeting of the Council of Ministers held on 18-8-1948 and the proposals for legislation on the lines indicated in the Bill were approved. The question for consideration is whether the draft Bill may again be placed before an Informal meeting of Ministers. In this connection, attention is invited to the Legal Deptt. note at p.23 above. The case may be submitted to H.M.(L.A), H.M(E.& L.) and H.Pr. for orders whether the draft Bill may again be placed before an Informal meeting of the Ministers or whether it will be considered sufficient to circulate the Bill to the Governor through every Minister, as laid down in Secretariat Instruction 32(6).

Sd/..... Sd/.....
D.S. 10-4-49.

Sd/.C.N. H.M.(L.A.)
12-11.

Sd/ K.M. (E & L).
14-11.

Sd/. P.S.K.(H.Pr.)
15.11-49

DEV. DEPTT.

NOTE FOR CIRCULATION

The Malabar and South Kanara L.M. Banks Committees, 1937, recommended that legislation should be undertaken on the lines indicated by them to facilitate the successful working of L.M. Banks in those two districts. Subsequently, the Madras Committee on Co-operation, 1939-40, also recommended certain amendments to the Madras Co-operative Land Mortgage Banks Act, 1934. The various recommendations were examined in consultation with Legal and other departments of the Secretariat but the necessary legislation was deferred for the duration of the war. Thereafter, the draft amendments were further examined in consultation with the Registrar. The subject was discussed at the Informal meeting of the Council of Ministers held on 19-8-1948 and the proposals for legislation on the lines suggested xxxxx were approved. The Legal Deptt, have xxxx now prepared the necessary draft Bill to amend the Madras Co-operative Land Mortgage Banks Act, 1934, together with the Statement of Objects and Reasons. A financial memorandum under Secretariat Instruction 32(2) in respect of new section 23-A (Clause 4 of the Bill) is also appended to the draft Bill. It has been decided that the draft Bill need not again be placed for discussion at an Informal meeting of the Hon'ble Ministers. As the draft Bill falls within the scope of entries 4,6,8 and 10 of the Concurrent Legislative List, the Govt. of India were consulted under Secretariat Instruction 33-A and they have no objection to the proposed amendments. Clause 7 of the Bill may be said to modify rights in lands and consequently requires the previous sanction of the Governor under sec.299(of the Government of India Act, 1935. The Bill does not require the xxxxxxxxxxxxxxxx recommendation of the Governor under Section 82 of the Government of India Act, 1935.

Under Secretariat Instruction 32(5), the draft Bill with the Statement of Objects and Reasons and the financial memorandum may now be submitted for orders to H.E. the Governor through every H.M. The previous sanction of H.E. the Governor under Sec.299(3) of the Govt. of India Act may be taken for clause 7 of the Bill- Orders of H.E. the Governor may also be taken for the publication of the Bill, together with the Statement of Objects and Reasons, in English and in the principal languages of the Province in the Fort St. George Gazette.

(An advance copy of the draft Bill together with the Statement of Objects and Reasons and the Financial memorandum in respect of Clause 4 of the Bill may be separately circulated to all H.Ms. and the Secretary to H.E. the Governor)

Sd/.----
19-4-49.

Sd/.....
21-11-49.

H,M.(L.A.) K.C. 24-11-

H.M(Food) R.V. 25-11.

H,M(Ind) C.P. 6-12.

H.M(Proh) N.S.R. 7-12.

H,M(R.D) B.).3-12.

H,M.(Agri) A.B.S.7-12.

H,M(L.R) H.S.R. 12-12

H.M(E & M)K.M.14-10

H.M(Fin) B.G.K.17-12.

H.M(P.W) M,B.8-12.

H.M.(P.H) T.S.R.9-12.

H.Pr. P.S.K.17-12-

H.E. K.B.20-12-49.

under Sec.299(3) of the G. of I.Act are

Sd/.....
20-12-49.

Sd/...
20-12.

To Asst. Secy.

Please see the orders in Circulation on p.36 above. Under Secretariat Instruction 39(1), the file may now be sent to the Legal Deptt. and they may be requested to take the necessary steps for the publication of the Bill in the Gazette. (The messages from H.E. the Governor under sec.29(3) of the Govt. of India Act, 1935, and the necessary notices may be sent to the Legislative after the Bill has been published).

Sd/.....
21-12-49. Legal.

Legal Dept.

Pl. see the notes of Dev. above. The Madras co-operative Land Mortgage Banks (Amendment) Bill. 1950, has been published at pp-1-6 of Part IV-A of the F.S.G.G. dated the 3rd January 1950. The file may be returned to Devtt. Dept. who will no doubt give the necessary notice of motion to the Secy to the Madras Legislature, with reference to the revised Secretariat Instruction 39(2)

Sd/.....
6-1-50. Dev.

Dev. Deptt.

To: A.S.

Please see the Legal Deptt. note above. With reference to the revised Sectt. instruction 39(2), a draft notice of motion to the Secretary to the Madras Legislative Assembly is submitted for H.M.(L.A.)'s approval. The message from H.E. the Governor under section 299(3) of the Govt. of India Act, 1935 sanctioning the introduction of the Bill may be sent to the Secretary, Madras Legislative Assembly, separately. A draft D.O. is submitted for approval. It will be issued along with the notice.

Sd/... Sd/..... Sd/. K.C.
12-1-50. 15-1-50. H.M(L.A.)

To: Asst. Secy.

As the Assembly has since been prorogned, the notice at pp.53-54 c.f. already given has now lapsed. Before fresh notice is given the Legal Deptt. may be requested to kindly advise whether the Bill requires the previous sanction or recommendation of H.E. the Governor under the Constitution of India which has come into force on and from 26-1-50.

Sd/....
12-2-50.

Sd/.....
2-2-50.
D.S. Legal.

LEGAL DEPARTMENT.

There is no provision in the Constitution of India corresponding to section 299(3) of the Government of India Act, 1935, requiring the previous sanction of the Governor in certain cases. There is therefore no question of obtaining the previous sanction of the Governor for the Bill.

2. The Bill does not make provision for any of the matters specified in sub-clauses (a) to (f) of article 199(1) Nor would the Bill when introduced and passed into law involve any expenditure from the Consolidated Fund of the State. The recommendation of the Governor is not therefore necessary under article 207 of the Constitution of India.

3. The Bill does not require any modification with reference to the Constitution of India.

Sd/:.....
10-12-50.

Dev. Deptt.

The Legal Deptt note from page 28 above may be perused. A draft letter to the Secy. Madras Legislative Assembly, giving fresh notice of the Bill 15 put up. It may be submitted to H.M.(L.A.) for approval.

Sd/:.:.
15-2-50

Sd/:...
20-2-50.
D.S.

Sd/ K.C.
H.M.(L.A.).21-2.

To: Asst. Secy.

Please see the Legal Deptt. U.O. note at p.59 C.F The republication of the Bill in this Gazette may be awaited. Meanwhile, Legal may be requested to kindly advise whether after such republication a fresh notice should be given to the Secy. Madras Leg. Assembly(the notice already given in at pp.57-58 C.F.).

Sd/..... Sd/.....
15-3-50. 16-3-50.
D.S. (Legal).

Legal Dept.

D.S.E.

Pl. see the note of Devt. at the foot of p.89 ante. The Bill referred to in their note has been republished in Part IV.A of the F.S.G.G. dated 14-3-50. A copy of the Bill is put up at (E) for reference. That Dept. may be informed that a fresh notice of Motion insupersession of the one already given by them, should be given to the Secretary of the Madras Legislative Assembly under rule 79 of the revised Madras Assembly Rules.

Sd/.....
17-3-50

Dev. Deptt.

To Asst. Secy.

A draft letter to the Secy. Madras Legislative Assembly giving fresh notice of Bill is put up below for approval. It may be submitted to H.M(L.A.) for approval.

Sd/..... Sd/....Sd/K.C.
20-3-50. D.S. H.M(L.A.)
20-3-50. 22/3

Please see the notice d/24-3-50 from the Secy.Madras Legislative Assembly at p.65 C.F. It is understood that the Bill will be taken into consideration on Wednesday the 29th March 1950 in the Madras Legislative

Assembly -

The file may be submitted to H.M.(L.A.)

Sd/..... Sd/..... H.M. (L.A.)
27-3-50. D.S. 28-3-50. Seen by H.M.(L.A.)
Sd/....
6-4-50.
P.A.

To: Asst. Secy-

Legal wanted this file for reference. It may now be sent to that Deptt.

Sd/.....
6-4-50. Legal.

Legal Dept.

The Madras Co-operative Land Mortgage Banks (Amendment) Act, 1950 which received the assent of the President on the 9th June 1950 has been published as M.A.~~#~~ IX of 1950 ~~xxxxxxx~~ ~~xxxxxxx~~ at pp.83-86 of Part IV-B of the F.S.G.G. dated the 20th June 1950. The file may be returned to Development as it is not longer required in this dept.

Sd/.....
22-6-50.

Dev. Deptt.

No further action is necessary in the file. These papers may be recorded. A draft order is put up below for approval.

Sd/.....
26-6-50.

True copy-

~~Revenue Secretariat Department~~

~~xxxxFinancial xxMemorandum xxxxxx~~

Development Department.

Financial Memorandum under Secretariat Instruction 32(2).

Sub: Acts and Rules- Madras Co-operative Land Mortgage Banks Act, 1934 - Amendment.

New section 23-A (clause 4 of the Bill) which it is proposed to insert before section 24 of the Madras Co-operative Land Mortgage Banks Act, 1934. provides that the mortgages executed in favour of, and all other assests ~~xxxxxx~~ transferred to, a mortgage bank by the members thereof shall, with effect from the date of such execution or transfer, be deemed automatically to have been transferred by such mortgage bank to the Central Land Mortgage Bank. In other words, it will be unnecessary to transfer such mortgages and other assets by means of registered documents. The Registrar was asked to report what revenue in the shape of registration fees had been derived during each of the last three years, on account of the transfer of mortgages and other assets by Primary Land Mortgage Banks to the Central Land Mortgage Bank and what would be the estimated loss of revenue involved in new section 23-A. He has reported the following figures furnished by the Inspector-General of Registration in respect of the amount of registration fees realised on deeds of assignment executed by primary land mortgage banks in favour of the Central Land Mortgage Bank during each of the last three financial years:-

Year	Amount of registration fees. Rs.	As.	Ps.
1946-47	10,759	13	0
1947-48	13,456	3	0
1948-49	17,911	7	0

As regards the probable loss of revenue in future years the Registrar has stated that it is not possible to forecast it with any degree of accuracy, as it depends on the vicissitudes of loan business of the banks. However, on the basis of the

figures of 1948-49 given above and also after allowing a margin for increase in revenue consequent on the ..... withdrawal of concessions relating to payment of registration fees in respect of documents of the value exceeding Rs.5,000/- the Registrar has estimated the actual loss of revenue involved in new section 23-A at Rs.19,000/- per annum.

Sd/.....
9-9-49.

True copy-

Superintendent.

RR.18.8

J.C. Phanlee
K.V. Ambegaokar